

REMARKS

Applicants respectfully request reconsideration of the instant application in the view of the aforementioned amendments and the following remarks. Claims 98-111, 113-125, 127-137, 139-150, 152-165, 167-179 and 181 are currently pending in the instant application. By this Amendment, Applicants have amended each of the independent claims (98, 113, 127, 139, 152 and 168).

Rejections under 35 USC 103

The Examiner has rejected each of the pending claims in view of two references to Koepper and Elliott, and extensive use of Official Notice. Applicants respectfully submit that the cited references fail to disclose or suggest a number of features recited in the instant claims. The Examiner concedes that the cited references fail to disclose a number of features, but relies extensively on Official Notice to reject the claims. Applicants respectfully submit that the Examiner's reliance on Official Notice highlights the fact the cited references clearly fail to disclose or suggest the features of the pending claims.

As previously noted, among the various features which are not disclosed or suggested by the cited references, Applicants note that the instant claims call for a method and system in which a conditional purchase offer including an offer price is received from a customer utilizing a web page for purchasing travel services, a payment identifier is received specifying a financial account for use in providing guaranteed payment for said travel services if said conditional purchase offer is accepted, and after receiving the conditional purchase offer and

payment identifier, a comparison is made between the offer with seller inventory and pricing information stored on a central reservation system to determine if the conditional purchase offer is acceptable. If the offer is accepted, the customer (via the payment identifier) is charged the offer price, thereby providing full payment for the travel services. By receiving the payment identifier (which is used to guarantee payment for at least the amount of said offer price for the travel services if the offer is accepted) prior to considering the offer, the system is clearly targeted to users who will submit only serious (binding) offers.

In response to certain of Applicants' prior arguments, the Examiner noted that "the features upon which applicant relies (i.e., a 'full payment . . . is not guaranteed in any way' and b 'if the offer is accepted, the customer (via the payment identifier) is charged the offer price, thereby providing full payment for the travel services') are not recited in the rejected claim(s)." In response to the Examiner's concerns, Applicants have amended each of the independent claims to recite that the payment identifier is used to specify a financial account for use in providing guaranteed payment for at least the amount of said offer price for said travel services if said conditional purchase offer is accepted.

As acknowledged by the Examiner, "the Koepper reference does not disclose how payment is carried-out." Page 14 of the instant office action. As such, the Koepper reference very clearly fails to disclose or suggest any system in which a payment identifier is received from the customer prior to consideration of an offer.

The Examiner however takes "official notice that payments from financial accounts, including debit, credit and charge accounts/cards, are notorious and well known to those of ordinary skill in the art at the time of the invention was made. Examiner takes official notice that at least these types of accounts have identifiers that may be used to provide

guaranteed payment in exchange for at least travel services and airline tickets.” Page 14 of the office action.

Applicants respectfully submit that the mere existence of credit cards prior to Applicants’ filing date completely fails to disclose or suggest Applicants’ claimed invention (as defined by each of the independent claims.) There is simply no suggestion in the cited references for “providing a payment identifier specifying a financial account for use in providing guaranteed payment for at least the amount of said offer price for said travel services if said conditional purchase offer is accepted”, as recited in amended independent claim 98 (and similarly claimed in other independent claims).

The Elliott reference fails to cure the deficiencies of Koepper in this, and other, respects. Accordingly, Applicants respectfully submit that the cited references fail to disclose or suggest all of the features of any of the pending claims.

In addition to these reasons, Applicants further note that the claimed invention, as embodied in the services of assignee priceline.com, has achieved significant commercial success, thereby providing further evidence in support of the non-obviousness of Applicants’ claimed invention. Despite the purported teachings of the cited references, and the Examiner’s position that missing features within the cited references are cured by extensive use of Official Notice, priceline.com has received and processed millions of conditional purchase offers through its website. Applicants respectfully request that the Examiner consider this powerful evidence of the non-obviousness of Applicants’ claimed invention.

Accordingly, Applicants respectfully submit that each of the pending claims are in condition for allowance.

The Examiner is invited to contact Applicants’ undersigned representative to discuss

any issues which may advance the prosecution of the instant application.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for this amendment, or credit any overpayment to Deposit Account 13-4500, Order No. 3553-4020US3. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,

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